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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
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10 ILIANA MARTINEZ,
11 Plaintiff,
12 v.
13 CWD, LLC, et al.,
14 Defendants.

Case No. 2:22-cv-08321-SVW-JC
PROTECTIVE ORDER

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17 1. A. PURPOSES AND LIMITATIONS

18 As it appears to the Court that discovery in this action is likely to involve
19 production of confidential, proprietary, or private information for which special
20 protection from public disclosure and from use for any purpose other than prosecuting
21 this litigation may be warranted, this Court enters the following Protective Order.
22 This Order does not confer blanket protections on all disclosures or responses to
23 discovery. The protection it affords from public disclosure and use extends only to
24 the limited information or items that are entitled to confidential treatment under the
25 applicable legal principles. Further, as set forth in Section 12.3, below, this Protective
26 Order does not entitle the parties to file confidential information under seal. Rather,
27 when the parties seek permission from the court to file material under seal, the parties
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1 must comply with Civil Local Rule 79-5 and with any pertinent orders of the assigned
2 District Judge and Magistrate Judge.

3 B. GOOD CAUSE STATEMENT

4 In light of the nature of the claims and allegations in this case and as it
5 appears to the Court that discovery in this case will involve the production of
6 confidential records, and in order to expedite the flow of information, to facilitate
7 the prompt resolution of disputes over confidentiality of discovery materials, to
8 adequately protect information the parties are entitled to keep confidential, to ensure
9 that the parties are permitted reasonable necessary uses of such material in
10 connection with this action, to address their handling of such material at the end of
11 the litigation, and to serve the ends of justice, a protective order for such information
12 is justified in this matter. The parties shall not designate any information/documents
13 as confidential without a good faith belief that such information/documents have
14 been maintained in a confidential, non-public manner, and that there is good cause
15 or a compelling reason why it should not be part of the public record of this case.

16 2. DEFINITIONS

17 2.1 Action: The instant action: Iliana Martinez v. CWD, LLC, et al., Case
18 No. 2:22-cv-08321-SVW-JC.

19 2.2 Challenging Party: a Party or Non-Party that challenges the
20 designation of information or items under this Order.

21 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
22 how it is generated, stored or maintained) or tangible things that qualify for protection
23 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
24 Cause Statement.

25 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
26 support staff).

27 2.5 Designating Party: a Party or Non-Party that designates information or
28 items that it produces in disclosures or in responses to discovery as

1 “CONFIDENTIAL.”

2 2.6 Disclosure or Discovery Material: all items or information, regardless
3 of the medium or manner in which it is generated, stored, or maintained (including,
4 among other things, testimony, transcripts, and tangible things), that are produced or
5 generated in disclosures or responses to discovery in this matter.

6 2.7 Expert: a person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to serve as
8 an expert witness or as a consultant in this Action.

9 2.8 House Counsel: attorneys who are employees of a party to this Action.
10 House Counsel does not include Outside Counsel of Record or any other outside
11 counsel.

12 2.9 Non-Party: any natural person, partnership, corporation, association, or
13 other legal entity not named as a Party to this action.

14 2.10 Outside Counsel of Record: attorneys who are not employees of a party
15 to this Action but are retained to represent or advise a party to this Action and have
16 appeared in this Action on behalf of that party or are affiliated with a law firm which
17 has appeared on behalf of that party, and includes support staff.

18 2.11 Party: any party to this Action, including all of its officers, directors,
19 employees, consultants, retained experts, and Outside Counsel of Record (and their
20 support staffs).

21 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
22 Discovery Material in this Action.

23 2.13 Professional Vendors: persons or entities that provide litigation support
24 services (e.g., photocopying, videotaping, translating, preparing exhibits or
25 demonstrations, and organizing, storing, or retrieving data in any form or medium)
26 and their employees and subcontractors.

27 2.14 Protected Material: any Disclosure or Discovery Material that is
28 designated as “CONFIDENTIAL.”

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

3 3. SCOPE

4 The protections conferred by this Order cover not only Protected Material (as
5 defined above), but also (1) any information copied or extracted from Protected
6 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
7 and (3) any deposition testimony, conversations, or presentations by Parties or their
8 Counsel that might reveal Protected Material, other than during a court hearing or at
9 trial.

10 Any use of Protected Material during a court hearing or at trial shall be
11 governed by the orders of the presiding judge. This Order does not govern the use of
12 Protected Material during a court hearing or at trial.

13 4. DURATION

14 Even after final disposition of this litigation, the confidentiality obligations
15 imposed by this Order shall remain in effect until a Designating Party agrees
16 otherwise in writing or a court order otherwise directs. Final disposition shall be
17 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
18 or without prejudice; and (2) final judgment herein after the completion and
19 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
20 including the time limits for filing any motions or applications for extension of time
21 pursuant to applicable law.

22 5. DESIGNATING PROTECTED MATERIAL

23 5.1 Exercise of Restraint and Care in Designating Material for Protection.
24 Each Party or Non-Party that designates information or items for protection under this
25 Order must take care to limit any such designation to specific material that qualifies
26 under the appropriate standards. The Designating Party must designate for protection
27 only those parts of material, documents, items, or oral or written communications that
28 qualify so that other portions of the material, documents, items, or communications

1 for which protection is not warranted are not swept unjustifiably within the ambit of
2 this Order.

3 Mass, indiscriminate, or routinized designations are prohibited. Designations
4 that are shown to be clearly unjustified or that have been made for an improper
5 purpose (e.g., to unnecessarily encumber the case development process or to impose
6 unnecessary expenses and burdens on other parties) may expose the Designating Party
7 to sanctions.

8 If it comes to a Designating Party's attention that information or items that it
9 designated for protection do not qualify for protection, that Designating Party must
10 promptly notify all other Parties that it is withdrawing the inapplicable designation.

11 5.2 Manner and Timing of Designations. Except as otherwise provided in
12 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
13 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
14 under this Order must be clearly so designated before the material is disclosed or
15 produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (e.g., paper or electronic
18 documents, but excluding transcripts of depositions), that the Producing Party affix at
19 a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL
20 legend"), to each page that contains protected material. If only a portion or portions
21 of the material on a page qualifies for protection, the Producing Party also must clearly
22 identify the protected portion(s) (e.g., by making appropriate markings in the
23 margins).

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and before
27 the designation, all of the material made available for inspection shall be deemed
28 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants

1 copied and produced, the Producing Party must determine which documents, or
2 portions thereof, qualify for protection under this Order. Then, before producing the
3 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”
4 to each page that contains Protected Material. If only a portion or portions of the
5 material on a page qualifies for protection, the Producing Party also must clearly
6 identify the protected portion(s) (e.g., by making appropriate markings in the
7 margins).

8 (b) for testimony given in depositions that the Designating Party identifies
9 on the record, before the close of the deposition as protected testimony.

10 (c) for information produced in some form other than documentary and for
11 any other tangible items, that the Producing Party affix in a prominent place on the
12 exterior of the container or containers in which the information is stored the legend
13 “CONFIDENTIAL.” If only a portion or portions of the information warrants
14 protection, the Producing Party, to the extent practicable, shall identify the protected
15 portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
17 failure to designate qualified information or items does not, standing alone, waive the
18 Designating Party’s right to secure protection under this Order for such material.
19 Upon timely correction of a designation, the Receiving Party must make reasonable
20 efforts to assure that the material is treated in accordance with the provisions of this
21 Order.

22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
24 designation of confidentiality at any time that is consistent with the Court’s
25 Scheduling Order.

26 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
27 resolution process under Local Rule 37-1 et seq.

1 6.3 The burden of persuasion in any such challenge proceeding shall be on
2 the Designating Party. Frivolous challenges, and those made for an improper purpose
3 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
4 expose the Challenging Party to sanctions. Unless the Designating Party has waived
5 or withdrawn the confidentiality designation, all parties shall continue to afford the
6 material in question the level of protection to which it is entitled under the Producing
7 Party's designation until the Court rules on the challenge.

8 7. ACCESS TO AND USE OF PROTECTED MATERIAL

9 7.1 Basic Principles. A Receiving Party may use Protected Material that is
10 disclosed or produced by another Party or by a Non-Party in connection with this
11 Action only for prosecuting, defending, or attempting to settle this Action. Such
12 Protected Material may be disclosed only to the categories of persons and under the
13 conditions described in this Order. When the Action has been terminated, a Receiving
14 Party must comply with the provisions of Section 13 below.

15 Protected Material must be stored and maintained by a Receiving Party at a
16 location and in a secure manner that ensures that access is limited to the persons
17 authorized under this Order.

18 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
19 otherwise ordered by the court or permitted in writing by the Designating Party, a
20 Receiving Party may disclose any information or item designated
21 “CONFIDENTIAL” only to:

22 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
23 as employees of said Outside Counsel of Record to whom it is reasonably necessary
24 to disclose the information for this Action;

25 (b) the officers, directors, and employees (including House Counsel) of the
26 Receiving Party to whom disclosure is reasonably necessary for this Action;

27 (c) Experts (as defined in this Order) of the Receiving Party to whom
28 disclosure is reasonably necessary for this Action and who have signed the

“Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional

Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” attached as Exhibit A, unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order unless prohibited by law;

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(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission, or unless otherwise required by the law or court order. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If a Non-Party represented by counsel fails to commence the process called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the notice and accompanying information or fails contemporaneously to notify the Receiving Party that it has done so, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If an unrepresented Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court unless otherwise required by the law or court order. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
7 may be established in an e-discovery order that provides for production without prior
8 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
9 parties reach an agreement on the effect of disclosure of a communication or
10 information covered by the attorney-client privilege or work product protection, the
11 parties may incorporate their agreement into this Protective Order.

12 12. MISCELLANEOUS

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
14 person to seek its modification by the Court in the future.

15 12.2 Right to Assert Other Objections. No Party waives any right it otherwise
16 would have to object to disclosing or producing any information or item on any
17 ground not addressed in this Protective Order. Similarly, no Party waives any right
18 to object on any ground to use in evidence of any of the material covered by this
19 Protective Order.

20 12.3 Filing Protected Material. A Party that seeks to file under seal any
21 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent
22 orders of the assigned District Judge and Magistrate Judge. If a Party's request to file
23 Protected Material under seal is denied by the court, then the Receiving Party may
24 file the information in the public record unless otherwise instructed by the court.

25 13. FINAL DISPOSITION

26 After the final disposition of this Action, as defined in Section 4, within 60 days
27 of a written request by the Designating Party, each Receiving Party must return all
28 Protected Material to the Producing Party or destroy such material. As used in this

1 subdivision, “all Protected Material” includes all copies, abstracts, compilations,
2 summaries, and any other format reproducing or capturing any of the Protected
3 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
4 must submit a written certification to the Producing Party (and, if not the same person
5 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
6 category, where appropriate) all the Protected Material that was returned or destroyed
7 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
8 compilations, summaries or any other format reproducing or capturing any of the
9 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
10 archival copy of all pleadings, motion papers, trial, deposition, and hearing
11 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
12 reports, attorney work product, and consultant and expert work product, even if such
13 materials contain Protected Material. Any such archival copies that contain or
14 constitute Protected Material remain subject to this Protective Order as set forth in
15 Section 4.

16 14. Any violation of this Order may be punished by any and all appropriate
17 measures including, without limitation, contempt proceedings and/or monetary
18 sanctions.

19 IT IS SO ORDERED

20 DATED: August 8, 2023

21 _____ /s/
22 Honorable Jacqueline Chooljian
United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Central District of California on August 8, 2023, in the case of Iliana Martinez v. CWD, LLC, et al., Case No. 2:22-cv-08321-SVW-JC. I agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date:

City and State where sworn and signed:

Printed name:

Signature: